

Shariah Guidelines For Issuing Sukuk

By

Hassan Kaleem



Sharia Advisor
AlBaraka Islamic Bank

&

Sharia Board Member
Pak-Kuwait Takaful

What is Sukuk?

Certificates of equal value representing proportionate ownership of tangible assets or usufructs or services or (of) the assets of a project or in an investment activity.

This ownership comes in effect after the completion of subscription and with the investment of received funds.

Different Kinds Of Sukuk

- Sukuk representing ownership in tangible assets (mostly based on Sale and Lease back or direct lease).
- Sukuk representing Usufructs or Services (based on sub lease or sale of services).
- Sukuk representing equity share in a particular business or investment portfolio (based on Musharakah/ Mudarabah).
- Sukuk representing receivable or future goods (based on Murabaha or Salam or Istisna').

The Relation Between Involved Parties

- The issuer and the subscribers are the main parties to the underlying contract.
- The SPV is a legal entity for a common representation of the subscribers.
- The underlying contract defines who is who.
- The relation between the issuer and the subscriber is governed by the rules of the original contract.

Tradable Sukuk

Sukuk representing tangible assets or proportionate ownership of a business or investment portfolio are tradable. For e.g. Sukuk of Ijarah or Musharakah / Mudarabah

Non-Tradable Sukuk

Sukuk representing receivables of cash or goods are non-tradable. For e.g. Sukuk of Salam or Murabaha.

Basic Shariah Rules

- All the rules of original contract on the basis of which Sukuk are created should be applied.
- The issuer cannot guarantee the face value of the certificate for the holder except in case of negligence/misconduct.
- In Sukuk based on sale and lease back, the issuer can unilaterally undertake that he will purchase the asset after one year for a certain price.

Basic Shariah Rules (Cont..)

- Different types of reserves (e.g. profit equalization reserve) or takaful pool can be created.
- Only those Sukuk can be traded that represent proportionate ownership of tangible assets, usufructs or services.
- Trading or redemption of Sukuk is allowed after closing subscription, allotment of Sukuk and commencement of activity.
- Sukuk of usufructs can be traded before the assets are sub-leased.
- Sukuk of services can be traded prior to passing the services to the user.
- In Sukuk of Musharakah/Mudarabah, the issuer can redeem the certificates on the market price or the mutually agreed price.